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**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF RIVERSIDE**

RAMON PUENTE VASQUEZ, as an  
individual and on behalf of all others similarly  
situated,

Plaintiff,

vs.

DECRA ROOFING SYSTEMS, INC., a  
California Corporation; and DOES 1 through  
100,

Defendants.

CASE NO. CVRI2104302

**FIRST AMENDED CLASS AND  
REPRESENTATIVE ACTION  
COMPLAINT:**

- (1) **MINIMUM WAGE VIOLATIONS  
(LABOR CODE §§ 1182.12, 1194,  
1194.2, 1197);**
- (2) **FAILURE TO PAY ALL  
OVERTIME WAGES (LABOR  
CODE §§ 204, 510, 1194, 1198);**
- (3) **MEAL PERIOD VIOLATIONS  
(LABOR CODE §§ 226.7, 512, 558);**
- (4) **REST PERIOD VIOLATIONS  
(LABOR CODE §§ 226.7, 516, 558);**
- (5) **WAGE STATEMENT PENALTIES  
(LABOR CODE § 226 *et seq.*);**
- (6) **UNFAIR COMPETITION (BUS &  
PROF CODE § 17200 *et seq.*); and**
- (7) **CIVIL PENALTIES UNDER  
THE PRIVATE ATTORNEYS  
GENERAL ACT (LABOR  
CODE § 2698 *et seq.*).**

**DEMAND FOR JURY TRIAL  
UNLIMITED CIVIL CASE**

1 Plaintiff Ramon Puente Vasquez (“Plaintiff”), on behalf of himself and all others similarly  
2 situated, hereby brings this First Amended Class and Representative Action Complaint  
3 (“Complaint”) against Defendants Decra Roofing Systems, Inc., a California Corporation, and  
4 DOES 1 to 100, inclusive (collectively “Defendants”), and on information and belief alleges as  
5 follows:

6 **JURISDICTION**

7 1. Plaintiff, on behalf of himself and all others similarly situated, hereby brings this  
8 Complaint for recovery of unpaid wages and penalties under California Business and Professions  
9 Code § 17200 *et. seq.*, Labor Code §§ 204, 226, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2,  
10 1197, 1198, and 2698 *et seq.*, and Industrial Welfare Commission Wage Order 1 (“Wage Order  
11 1”), in addition to seeking injunctive relief, declaratory relief, and restitution. This Complaint is  
12 brought pursuant to California Code of Civil Procedure § 382. This Court has jurisdiction over  
13 Defendants’ violations of the California Labor Code because the amount in controversy exceeds  
14 this Court's jurisdictional minimum.

15 **VENUE**

16 2. Venue is proper in this judicial district pursuant to California Code of Civil  
17 Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions complained of herein  
18 occurred in Riverside County. Defendants own, maintain offices, transact business, have an agent  
19 or agents within Riverside County, and/or otherwise are found within Riverside County, and  
20 Defendants are within the jurisdiction of this Court for purposes of service of process.

21 **PARTIES**

22 3. Plaintiff is, and at all times relevant herein was, an individual over the age of  
23 eighteen (18). At all relevant times herein, Plaintiff was, and currently is, a California resident.  
24 Within the statute of limitations periods applicable to each cause of action pled herein, Plaintiff  
25 was employed by Defendants as a non-exempt employee. Plaintiff was, and is, a victim of  
26 Defendants’ policies and/or practices complained of herein, lost money and/or property, and has  
27 been deprived of the rights guaranteed by California Business and Professions Code § 17200 *et.*  
28 *seq.*, Labor Code §§ 204, 226, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198, and

2698 *et seq.*, and Wage Order 1, which sets employment standards for the manufacturing industry.

4. Plaintiff is informed and believes, and based thereon alleges, that during the applicable statute of limitations for each cause of action pled herein and continuing to the present, Defendants engage in and continue to engage in the manufacturing of roofing products, and employed Plaintiff and other, similarly-situated non-exempt employees within Riverside County, and the State of California and, therefore, were (and are) doing business in Riverside County and the State of California.

5. Plaintiff does not know the true names or capacities, whether individual, partner, or corporate, of the defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to amend this Complaint when such true names and capacities are discovered. Plaintiff is informed, and believes, and based thereon alleges, that each of said fictitious defendants, whether individual, partners, or corporate, were responsible in some manner for the acts and omissions alleged herein, and proximately caused Plaintiff and the Classes (as defined in Paragraph 16) to be subject to the unlawful employment practices, wrongs, injuries and damages complained of herein.

6. Plaintiff is informed, and believes, and thereon alleges, that at all times mentioned herein, Defendants were and are the employers of Plaintiff and all members of the Classes.

7. At all relevant times, each of said Defendants participated in the doing of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the Defendants, and each of them, were the agents, servants, and employees of each and every one of the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned were acting within the course and scope of said agency and employment. Defendants, and each of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or omissions complained of herein.

8. At all times mentioned herein, Defendants, and each of them, were members of and engaged in a joint venture, partnership, and common enterprise, and acting within the course and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further, Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all

1 members of the Classes.

2 **GENERAL FACTUAL ALLEGATIONS**

3 9. Defendants design and manufacture a variety of metal roofing products, including  
4 tiles, shakes and shingles. Plaintiff began working for Defendants at its Corona, California  
5 facility as a non-exempt employee in approximately 2012 and is currently employed by  
6 Defendants. During Plaintiff's employment with Defendants, Plaintiff was typically scheduled to  
7 start his shift at 5:00 a.m. Plaintiff was required to be at his assigned working area at the scheduled  
8 start time of 5:00 a.m. to attend daily production meetings. In order to be at his assigned working  
9 area at the scheduled start time of 5:00 a.m., Plaintiff regularly clocked in prior to his scheduled  
10 start time of 5:00 a.m. to don required protective gear, including a vest, gloves, helmet and ear  
11 plugs, and other items, and walk to his assigned working area.

12 10. During Plaintiff's employment with Defendants, Defendants' timekeeping  
13 policies and/or practices resulted in Plaintiff and other non-exempt employees not being  
14 compensated for all hours actually worked, whether by rounding, time-shaving, or otherwise.  
15 Upon information and belief, Defendants only paid Plaintiff and other non-exempt employees  
16 based on their scheduled start of shift, rather than the actual time they began working each  
17 workday, thereby causing Plaintiff and other non-exempt employees to be underpaid for all wages  
18 due, including minimum, overtime, and double-time wages. Defendants' timekeeping  
19 policies/practices were not even handed and have resulted in Plaintiff and other non-exempt  
20 employees not being compensated for all hours worked. Further, on occasions when Plaintiff and  
21 other non-exempt employees worked over eight (8) hours in a workday and/or forty (40) hours in  
22 a workweek, Defendants' timekeeping policies/practices deprived them of additional overtime  
23 and double-time wages earned.

24 11. During Plaintiff's employment with Defendants, Plaintiff often worked over eight  
25 (8) hours per workday and/or more than forty (40) hours per workweek but did not receive  
26 overtime compensation equal to one and one-half times his regular rate of pay for working  
27 overtime hours. Specifically, Defendants paid Plaintiff and other non-exempt employees safety-  
28 related bonuses and other non-discretionary incentive pay, including but not limited to payments

denoted as “bonus” and/or other forms of pay that are not excludable from an employee’s “regular rate” of pay (hereinafter the aforementioned forms of pay are collectively referred to as “Incentive Pay”). However, Defendants failed to properly calculate Plaintiff’s and other non-exempt employees’ regular rates of pay as a result of their receipt of Incentive Pay, thereby miscalculating and underpaying the overtime wages owed to them.

12. Defendants failed to provide Plaintiff and other non-exempt employees with all legally compliant meal periods due to Defendants’ meal period policies/practices, which have failed to provide Plaintiff and other non-exempt employees with an uninterrupted meal period of at least 30 minutes in duration commencing before the conclusion of the fifth hour of work. Defendants’ meal period policies/practices also failed to provide a second meal period for shifts in excess of 10.0 hours. Specifically, although Plaintiff typically clocked in for his shift prior to 5:00 a.m., Plaintiff was occasionally prevented from taking a meal period until 10:00 a.m., which is after the completion of five hours of work. Defendants also failed to provide Plaintiff and other non-exempt employees with second meal periods on shifts over 10.0 hours. On those occasions when Plaintiff was not provided with all legally-compliant meal periods to which he was entitled, Defendants failed to compensate Plaintiff with the required meal period premium(s) for each workday there was a meal period violation as mandated by Labor Code § 226.7. Upon information and belief, Defendants maintained no mechanism for the payment of meal period premium payments as required by Labor Code § 226.7, in the event that a legally-compliant meal period was not provided to their non-exempt employees.

13. Plaintiff and other non-exempt employees were not authorized and permitted to take all required rest periods due to Defendants’ unlawful rest period policies/practices, which failed to authorize and permit a net 10-minute rest period for every four hours worked, or major fraction thereof. Specifically, although Plaintiff and other non-exempt employees regularly worked shifts in excess of 10.0 hours, Defendants’ rest period policies/practices failed to authorize and permit a third rest period for shifts of over 10.0 hours. On those occasions when Plaintiff was not authorized and permitted to take all legally-compliant rest periods to which he was entitled, Defendants failed to compensate Plaintiff with the required rest period premium(s)

for each workday there was a rest period violation as mandated by Labor Code § 226.7. Upon information and belief, Defendants maintained no mechanism for the payment of rest period premium payments as required by Labor Code § 226.7, in the event that a legally-compliant rest period was not authorized and permitted to their non-exempt employees.

14. As a result of Defendants' failure to pay all minimum and overtime wages and failure to pay all meal and rest period premium wages, Defendants maintained inaccurate payroll records and issued inaccurate wage statements to Plaintiff and other non-exempt employees.

15. Pursuant to California Judicial Council Emergency Rule 9, statutes of limitations of more than 180 days were suspended for 178 days, from April 6, 2020 through October 1, 2020. Accordingly, the relevant time period for each cause of action pled herein has been calculated to include 178 days preceding the filing of this action.

### **CLASS ACTION ALLEGATIONS**

16. **Class Definitions:** Plaintiff brings this action on behalf of himself and the following Classes pursuant to § 382 of the Code of Civil Procedure:

- a. The Minimum Wage Class consists of all of Defendants' current and former non-exempt employees in California who were subject to Defendants' timekeeping policies and/or practices, during the four years plus 178 days immediately preceding the filing of this action through the present.
- b. The Overtime Class consists of all of Defendants' current and former non-exempt employees in California who worked more than eight (8) hours per day and/or forty (40) hours per week and: (i) were subject to Defendants' timekeeping policies and/or practices; and/or (ii) received Incentive Pay during the same pay period, during the four years plus 178 days immediately preceding the filing of this action through the present.
- c. The Meal Period Class consists of all of Defendants' current and former non-exempt employees in California who: (i) worked at least one shift in excess of 5.0 hours without a meal period of at least 30 minutes in duration commencing prior to the conclusion of the fifth hour of work as reflected in their timekeeping records,

and who do not have a corresponding meal period premium payment made for such shifts; and/or (ii) worked at least one shift in excess of 10.0 hours without a second meal period of at least 30 minutes in duration commencing prior to the conclusion of the tenth hour of work as reflected in their timekeeping records, and who do not have a corresponding meal period premium payment made for such shifts, during the four years plus 178 days immediately preceding the filing of this action through the present.

d. The Rest Period Class consists of all of Defendants' current and former non-exempt employees in California who worked at least one shift in excess of 10.0 hours, during the four years plus 178 days immediately preceding the filing of this action through the present.

e. The Wage Statement Class consists of all members of the Minimum Wage Class, Overtime Class, Meal Period Class and/or Rest Period Class who received a wage statement, during the one year plus 178 days immediately preceding the filing of this action through the present.

17. **Numerosity/Ascertainability:** The members of the Classes are so numerous that joinder of all members would be unfeasible and not practicable. The membership of the Classes and Subclasses are unknown to Plaintiff at this time; however, it is estimated that the members of the Classes number greater than one hundred (100) individuals. The identity of such membership is readily ascertainable via inspection of Defendants' employment records.

18. **Common Questions of Law and Fact Predominate/Well Defined Community of Interest:** There are common questions of law and fact as to Plaintiff and all other similarly situated employees, which predominate over questions affecting only individual members including, without limitation to:

- i. Whether Defendants properly paid all overtime wages to members of the Overtime Class;
- ii. Whether Defendants paid at least the minimum wage for all hours worked to members of the Minimum Wage Class;

- 1           iii.     Whether Defendants provided all legally compliant meal periods to members of  
2                   the Meal Period Class pursuant to Labor Code §§ 226.7 and 512;
- 3           iv.     Whether Defendants authorized and permitted all legally compliant rest periods to  
4                   members of the Rest Period Class pursuant to Labor Code §§ 226.7 and 516;
- 5           v.     Whether Defendants provided meal and rest period premium payments for non-  
6                   compliant meal and rest periods; and
- 7           vi.     Whether Defendants furnished legally compliant wage statements to members of  
8                   the Wage Statement Class pursuant to Labor Code § 226.

9           19.     **Predominance of Common Questions:** Common questions of law and fact  
10           predominate over questions that affect only individual members of the Classes. The common  
11           questions of law set forth above are numerous and substantial and stem from Defendants' policies  
12           and/or practices applicable to each individual class member, including but not limited to  
13           Defendants' timekeeping policies/practices, and meal and rest period policies/practices. As such,  
14           the common questions predominate over individual questions concerning each individual class  
15           member's showing as to their eligibility for recovery or as to the amount of their damages.

16           20.     **Typicality:** The claims of Plaintiff are typical of the claims of the Classes because  
17           Plaintiff was employed by Defendants as a non-exempt employee in California during the  
18           statute(s) of limitations period applicable to each cause of action pled in the Complaint. As alleged  
19           herein, Plaintiff, like the members of the Classes, was not paid all minimum and overtime wages  
20           owed due to Defendants' timekeeping policies/practices, was not provided all required meal  
21           periods, was not authorized and permitted all rest periods, did not receive premium pay for non-  
22           compliant meal and rest periods, and was not provided with accurate, compliant, itemized wage  
23           statements.

24           21.     **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps  
25           to represent fairly and adequately the interests of the members of the Classes. Moreover,  
26           Plaintiff's attorneys are ready, willing and able to fully and adequately represent the members of  
27           the Classes and Plaintiff. Plaintiff's attorneys have prosecuted and defended numerous wage-and-  
28           hour class actions in state and federal courts in the past and are committed to vigorously

1 prosecuting this action on behalf of the members of the Classes.

2       22.     **Superiority:** The California Labor Code is broadly remedial in nature and serves  
3 an important public interest in establishing minimum working conditions and standards in  
4 California. These laws and labor standards protect the average working employee from  
5 exploitation by employers who have the responsibility to follow the laws and who may seek to  
6 take advantage of superior economic and bargaining power in setting onerous terms and  
7 conditions of employment. The nature of this action and the format of laws available to Plaintiff  
8 and members of the Classes make the class action format a particularly efficient and appropriate  
9 procedure to redress the violations alleged herein. If each employee were required to file an  
10 individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they  
11 would be able to exploit and overwhelm the limited resources of each individual plaintiff with  
12 their vastly superior financial and legal resources. Moreover, requiring each member of the  
13 Class(es) to pursue an individual remedy would also discourage the assertion of lawful claims by  
14 employees who would be disinclined to file an action against their former and/or current employer  
15 for real and justifiable fear of retaliation and permanent damages to their careers at subsequent  
16 employment. Further, the prosecution of separate actions by the individual class members, even  
17 if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications  
18 with respect to the individual class members against Defendants herein; and which would  
19 establish potentially incompatible standards of conduct for Defendants; and/or legal  
20 determinations with respect to individual class members which would, as a practical matter, be  
21 dispositive of the interest of the other class members not parties to adjudications or which would  
22 substantially impair or impede the ability of the class members to protect their interests. Further,  
23 the claims of the individual members of the Class are not sufficiently large to warrant vigorous  
24 individual prosecution considering all of the concomitant costs and expenses attending thereto.  
25 As such, the Classes identified in Paragraph 16 are maintainable as classes under § 382 of the  
26 Code of Civil Procedure.

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**FIRST CAUSE OF ACTION**  
**MINIMUM WAGE VIOLATIONS**  
**(AGAINST ALL DEFENDANTS)**

23. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

24. Wage Order 1, § 4 and California Labor Code §§ 1197 and 1182.12 establish the right of employees to be paid minimum wages for all hours worked, in amounts set by state law. Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal minimum wage as required by Labor Code § 1197 may recover the unpaid balance together with attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid wages and interest accrued thereon. At all relevant times herein, Defendants failed to conform its pay practices to the requirements of the law by failing to pay Plaintiff and members of the Minimum Wage Class for all hours worked, including, but not limited to, all hours they were subject to the control of Defendants and/or suffered or permitted to work under the California Labor Code and Wage Order 1.

25. California Labor Code § 1198 makes unlawful the employment of an employee under conditions that the IWC prohibits. California Labor Code §§ 1194(a) and 1194.2(a) provide that an employer who has failed to pay its employees the legal minimum wage is liable to pay those employees the unpaid balance of the unpaid wages as well as liquidated damages in an amount equal to the wages due and interest thereon.

26. As a consequence of Defendants' non-payment of minimum wages, Plaintiff and members of the Minimum Wage Class seek penalties pursuant to Wage Order 1 § 20(A) and California Labor Code § 1199; interest pursuant to California Labor Code §§ 218.6 and 1194 and Civil Code §§ 3287 and 3289; liquidated damages pursuant to California Labor Code § 1194.2; attorneys' fees and costs of suit pursuant to California Labor Code § 1194 *et seq.*; and damages and/or penalties pursuant to California Labor Code § 558(a).

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1 **SECOND CAUSE OF ACTION**

2 **FAILURE TO PAY ALL OVERTIME WAGES**

3 **(AGAINST ALL DEFENDANTS)**

4 27. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

5 28. This cause of action is brought pursuant to Labor Code §§ 204, 510, 1194, and  
6 1198, which provide that non-exempt employees are entitled to all overtime wages and  
7 compensation for all overtime hours worked and provide a private right of action for the failure  
8 to pay all overtime compensation for overtime work performed.

9 29. At all times relevant herein, Defendants were required to properly compensate  
10 non-exempt employees, including Plaintiff and members of the Overtime Class, for all overtime  
11 hours worked pursuant to California Labor Code § 1194 and Wage Order 1. Wage Order 1, § 3  
12 requires an employer to pay an employee “one and one-half (1½) times the employee’s regular  
13 rate of pay” for all overtime hours work. Defendants caused Plaintiff and members of the  
14 Overtime Class to work overtime hours, but failed to credit these employees with all overtime  
15 hours actually worked.

16 30. The foregoing policies and practices are unlawful and create entitlement to  
17 recovery by Plaintiff and the Overtime Class members in a civil action for the unpaid amount of  
18 overtime premiums owing, including interest thereon, statutory penalties, attorneys’ fees, and  
19 costs of suit according to California Labor Code §§ 204, 210, 216, 218.6, 510, 1194, and 1198;  
20 Code of Civil Procedure § 1021.5; and Civil Code §§ 3287 and 3289.

21 **THIRD CAUSE OF ACTION**

22 **MEAL PERIOD VIOLATIONS**

23 **(AGAINST ALL DEFENDANTS)**

24 31. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

25 32. Plaintiff is informed and believes, and based thereon alleges, that Defendants  
26 failed in their affirmative obligation to provide all of their non-exempt employees in California,  
27 including Plaintiff and members of the Meal Period Class, with all legally compliant meal periods  
28 in accordance with the mandates of the California Labor Code and Wage Order 1, § 11. Despite

Defendants' violations, Defendants did not pay an additional hour of pay to Plaintiff and members of the Meal Period Class at their respective regular rates of compensation, in accordance with California Labor Code §§ 204, 210, 226.7, and 512.

33. As a result, Defendants are responsible for paying premium compensation for meal period violations including interest thereon, statutory penalties, civil penalties, and costs of suit, pursuant to Labor Code §§ 226.7, 512, 558, Wage Order 1, and Civil Code §§ 3287(b) and 3289.

#### **FOURTH CAUSE OF ACTION**

##### **REST PERIOD VIOLATIONS**

##### **(AGAINST ALL DEFENDANTS)**

34. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

35. Wage Order 1, § 12 and California Labor Code §§ 226.7, 516 and 558 establish the right of employees to be provided with a rest period of at least ten (10) minutes for each four (4) hour period worked, or major fraction thereof. Despite Defendants' failure to authorize and permit Plaintiff and members of the Rest Period Class to take all legally complaint rest periods as alleged herein, Defendants did not pay these individuals an additional hour of pay at their respective regular rate for the rest periods that they failed to authorize and permit them to take, as required by Labor Code § 226.7.

36. Defendants' policies and practices described herein are unlawful and create an entitlement to recovery by Plaintiff and members of the Rest Period Class in a civil action for the unpaid amount of rest period premiums owing, including interests thereon, statutory penalties, civil penalties, attorneys' fees, and costs of suit according to California Labor Code §§ 226.7, 516, 558, Wage Order 1, and Civil Code §§ 3287(b) and 3289.

#### **FIFTH CAUSE OF ACTION**

##### **WAGE STATEMENT VIOLATIONS**

##### **(AGAINST ALL DEFENDANTS)**

37. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

38. Plaintiff is informed and believes, and based thereon alleges, that Defendants knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff

1 and members of the Wage Statement Class with accurate and complete, itemized wage statements  
2 that included, among other requirements, all hours worked, total gross wages earned, all rates of  
3 pay and corresponding number of hours worked, total net wages earned, and the correct name and  
4 address of the legal entity that is the employer in violation of Labor Code § 226 *et seq.*

5 39. Defendants' failure to furnish Plaintiff and members of the Wage Statement Class  
6 with accurate and complete, itemized wage statements resulted in actual injury, as said failures  
7 led to, among other things, the non-payment of minimum and overtime wages and meal and rest  
8 period premium wages owed, and deprived them of the information necessary to identify the  
9 discrepancies in Defendants' reported data.

10 40. Defendants' failures create an entitlement to recovery by Plaintiff and members of  
11 the Wage Statement Class in a civil action for all damages and/or penalties pursuant to Labor  
12 Code § 226 *et seq.*, including statutory penalties, civil penalties, reasonable attorneys' fees, and  
13 costs of suit according to California Labor Code § 226 *et seq.*

14 **SIXTH CAUSE OF ACTION**

15 **UNFAIR COMPETITION**

16 **(AGAINST ALL DEFENDANTS)**

17 41. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

18 42. Defendants have engaged and continue to engage in unfair and/or unlawful  
19 business practices in California in violation of California Business and Professions Code § 17200  
20 *et seq.*, by: (a) failing to pay Plaintiff and members of the Overtime Class all overtime wages  
21 owed; (b) failing to pay Plaintiff and members of the Minimum Wage Class all minimum wages;  
22 (c) failing to provide Plaintiff and members of the Meal Period Class with all meal periods to  
23 which they are entitled, and failing to pay them meal period premium payments; (d) failing to  
24 authorize and permit Plaintiff and members of the Rest Period Class all rest periods to which they  
25 are entitled, and failing to pay them rest period premium payments; and (e) failing to issue  
26 accurate and itemized wage statements to the Wage Statement Class.

27 43. Defendants' utilization of these unfair and/or unlawful business practices deprived  
28 Plaintiff and continues to deprive members of the Classes of compensation to which they are

legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage over Defendants' competitors who have been and/or are currently employing workers and attempting to do so in honest compliance with applicable wage and hour laws.

44. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged herein, Plaintiff for himself and on behalf of the members of the Classes, seeks full restitution of monies, as necessary and according to proof, to restore any and all monies withheld, acquired and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

45. The acts complained of herein occurred within the last four years immediately preceding the filing of the Complaint in this action.

46. Plaintiff was compelled to retain the services of counsel to file this court action to protect his interests and those of the Classes, to obtain restitution and injunctive relief on behalf of Defendants' current non-exempt employees, and to enforce important rights affecting the public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs, which he is entitled to recover under Code of Civil Procedure § 1021.5.

### **SEVENTH CAUSE OF ACTION**

#### **PRIVATE ATTORNEYS GENERAL ACT**

#### **(AGAINST ALL DEFENDANTS)**

47. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

48. Defendants have committed several Labor Code violations against Plaintiff, members of the Classes, and other aggrieved employees. Plaintiff, an "aggrieved employee" within the meaning of Labor Code § 2698 *et seq.*, acting on behalf of himself and other aggrieved employees, brings this representative action against Defendants to recover the civil penalties due to Plaintiff, the members of the Classes, other aggrieved employees, and the State of California according to proof pursuant to Labor Code § 558 and § 2699 (a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent violation pursuant to Labor Code § 558 per

employee per pay period; (3) \$100.00 for each initial violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for each initial violation and \$200 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the following Labor Code violations:

- a. Failing to pay minimum wages for all hours worked to Plaintiff, the Minimum Wage Class, and other aggrieved employees in violation of Labor Code §§ 1182.12, 1194, 1194.2, and 1197;
- b. Failing to pay Plaintiff, the Overtime Class, and other aggrieved employees all earned overtime compensation in violation of Labor Code §§ 204, 510, 1194, and 1198;
- c. Failing to provide all legally required meal periods, and failure to pay meal period premium wages, to Plaintiff, the Meal Period Class, and other aggrieved employees at the regular rate of compensation in violation of Labor Code §§ 226.7, 512, 558, and 1198;
- d. Failing to authorize and permit all legally required rest periods, and failure to pay rest period premium wages, to Plaintiff, the Rest Period Class, and other aggrieved employees at the regular rate of compensation in violation of Labor Code §§ 226.7, 516, and 558;
- e. Failing to furnish Plaintiff and other aggrieved employees sick pay at their respective regular rates of pay in violation of Labor Code §§ 246, 558, and 1198;
- f. Failing to furnish Plaintiff, the Wage Statement Class, and other aggrieved employees with complete, accurate, itemized wage statements in violation of Labor Code § 226;
- g. Failing to pay Plaintiff and other aggrieved employees all earned wages at least twice during each calendar month in violation of Labor Code § 204; and
- h. Failing to maintain accurate records on behalf of Plaintiff and other aggrieved

employees in violation of Labor Code § 1174 and 1198.

49. On September 17, 2021, Plaintiff notified Defendants via certified mail, and notified the California Labor and Workforce Development Agency (“LWDA”) via its website, of Defendants’ violations of the California Labor Code and Plaintiff’s intent to bring a claim for civil penalties under California Labor Code § 2698 *et seq.* with respect to the violations of the California Labor Code identified in Paragraph 48 (a)-(h). Now that sixty-five days have passed from Plaintiff notifying Defendants and the LWDA of these violations, and the LWDA has not provided notice that it intends to investigate the violations, Plaintiff has exhausted his administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

50. Based on the foregoing, Plaintiff seeks to represent himself and all Aggrieved Employees, as defined by Labor Code § 2699(c). Pursuant to California Judicial Council Emergency Rule 9, statutes of limitation of more than 180 days were suspended for 178 days, from April 6, 2020, through October 1, 2020. Accordingly, the relevant time period for the violations of the California Labor Code identified in Paragraph 48 (a) – (h) is one year plus 178 days prior to September 17, 2021.

51. Plaintiff was compelled to retain the services of counsel to file this court action to protect his interests and the interests of other aggrieved employees, and to assess and collect the civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys’ fees and costs, which he is entitled to receive under California Labor Code § 2699(g).

### **PRAYER**

WHEREFORE, Plaintiff prays for judgment for himself and for all others on whose behalf this suit is brought against Defendants, as follows:

1. For an order certifying the proposed Classes;
2. For an order appointing Plaintiff as representative of the Classes;
3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
4. Upon the First Cause of Action, for payment of minimum wages, liquidated damages, and penalties according to proof pursuant to Labor Code §§ 1182.12, 1194, 1194.2, and

1 1197;

2 5. Upon the Second Cause of Action, for compensatory, consequential, general and  
3 special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;

4 6. Upon the Third Cause of Action, for compensatory, consequential, general and  
5 special damages according to proof pursuant to Labor Code §§ 226.7, 512, and 558;

6 7. Upon the Fourth Cause of Action, for compensatory, consequential, general, and  
7 special damages according to proof pursuant to Labor Code §§ 226.7, 516, and 558;

8 8. Upon the Fifth Cause of Action, for statutory penalties pursuant to Labor Code §  
9 226 *et seq.*;

10 9. Upon the Sixth Cause of Action, for restitution to Plaintiff and members of the  
11 Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or  
12 practices declared by this Court to be in violation of Business and Professions Code § 17200 *et*  
13 *seq.*;

14 10. Upon the Seventh Cause of Action, for civil penalties due to Plaintiff, other  
15 aggrieved employees, and the State of California according to proof pursuant to Labor Code §§  
16 558 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for  
17 each failure to pay each employee and \$200 for each subsequent violation or willful or intentional  
18 violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the  
19 amount unlawfully withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent  
20 violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial  
21 violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per  
22 employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent  
23 violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for  
24 each initial violation and \$200 for each subsequent violation per employee per pay period for  
25 those violations of the Labor Code for which no civil penalty is specifically provided, based on  
26 the Labor Code violations identified in Paragraph 48 (a)-(h);

27 11. Prejudgment interest on all due and unpaid wages pursuant to California Labor  
28 Code § 218.6 and Civil Code §§ 3287 and 3289;

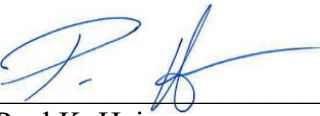
1           12.     On all causes of action, for attorneys' fees and costs as provided by Labor Code  
2 §§ 226, 1194, and 2699(g), and Code of Civil Procedure § 1021.5; and

3           13.     For such other and further relief, the Court may deem just and proper.

4  
5 Dated: November 22, 2021

Respectfully submitted,  
HAINES LAW GROUP, APC

6  
7 By: \_\_\_\_\_

  
Paul K. Haines  
Attorneys for Plaintiff

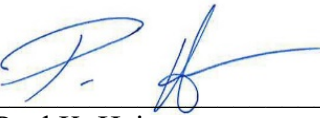
8  
9  
10 **DEMAND FOR JURY TRIAL**

11           Plaintiff hereby demands a jury trial with respect to all issues triable by jury.

12  
13 Dated: November 22, 2021

Respectfully submitted,  
HAINES LAW GROUP, APC

14  
15 By: \_\_\_\_\_

  
Paul K. Haines  
Attorneys for Plaintiff